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10/821,201

04/09/2004

Siddhartha Panda

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09/18/2006

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EXAMINER

GOUDREAU, GEORGE A

ART UNIT

PAPER NUMBER

1763

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,201

Applicant(s)

PANDA ET AL.

Examiner

George A. Goudreau

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

George A. Goudreau
GEORGE GOUDREAU
PRIMARY EXAMINER
9-06'

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1. Claims 9-14, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-In lines 16-18 of claim 9, applicant recites means for the cooperation of the noble gas with the HBr gas during the replacement of the HBr gas by the noble gas. The examiner does not understand how the different gasses which are recited by the applicant in lines 16-18 of claim 9 can "cooperate" with each other to achieve a goal. The usage of the term "cooperate" implies the gasses conduct a thought process, which is not plausible. These claims are vague, and indefinite in this regard.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-11, 13-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mimura et. al. (WO-02/23,609) as applied in paragraph 3 of the previous office action.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied in paragraph 7 of the previous office action.

7. Applicant's arguments filed 7-10-06' have been fully considered but they are not persuasive.

Applicant argues the following points regarding the examiner's rejection of their claims.

-Applicant's claims as amended cannot properly be rejected under either 102 or 103 based upon the incorporation of the limitation of claim 15 into claim 9.

Applicant then states that the prior art as applied by the examiner to reject claims under 102 or 103 fails to disclose the specific limitations, which were previously recited in claim 15.

The examiner must disagree.

-The Mimura et. al. reference (i.e.-WO-02/23,609), which was previously used to reject applicant's claims under both 102, and 103, does disclose in their

specification the features, which were previously recited in claim 15. In particular, the specification of WO-02/23,609 states the following. "The gas inlet portion (20 a) is connected to a gas supply pipe 23 a. The other end of the gas supply pipe 23 a is connected to a process gas supply system 23. The process gas supply system 23 supplies a process gas containing an etching gas and diluent gas. The process gas supply system 23 is constituted by gas supply sources (not shown) for the etching gas and the like, and mass flow controllers (not shown) for the etching gas and the like, and mass flow controllers (not shown) and valves (not shown). The mass flow controllers and valves are respectively connected midway along pipes from the gas sources. (Applicant may see an English language translation of the specification of this patent if applicant reviews US 7,022,616, which issued from the same source as WO-02/23,609 did. Applicant's attention is drawn in particular to lines 16-25 of column 4 of this patent. Please note that the examiner is not using US 7,022,616 to reject applicant's claims. The examiner is only mentioning this patent to assist in applicant's evaluation of WO-02/23,609, which is not in English.)

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

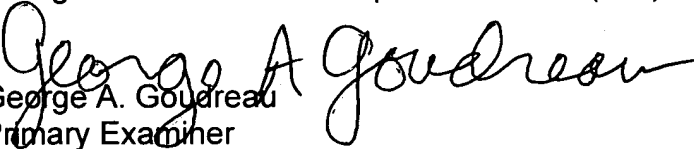
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication should be directed to examiner

George A. Goudreau at telephone number (571)-272-1434.


George A. Goudreau
Primary Examiner
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